

STATE OF MICHIGAN
COURT OF APPEALS

MARY JEANNE HANSEN,

Plaintiff-Appellee,

v

KURT NEIL HANSEN,

Defendant-Appellant.

UNPUBLISHED

November 10, 2005

No. 251040

Isabella Circuit Court

LC No. 01-000755-DM

Before: Fort Hood, P.J., and Owens and Schuette, JJ.

PER CURIAM.

Defendant appeals as of right from a judgment of divorce. We reverse and remand for proceedings consistent with this opinion.

When awarding alimony, a “court should consider the length of the marriage, the parties’ ability to pay, their past relations and conduct, their ages, needs, ability to work, health, and fault, if any.” *Ianitelli v Ianitelli*, 199 Mich App 641, 643; 502 NW2d 691 (1993). An award of spousal support is within the trial court’s discretion. *Gates v Gates*, 256 Mich App 420, 432; 664 NW2d 231 (2003). Appellate review of the trial court’s factual findings is reviewed for clear error. *Moore v Moore*, 242 Mich App 652, 654; 619 NW2d 723 (2003). An award of alimony is determined by examining what is just and reasonable under the circumstances of the individual case. *Id.* A finding is clearly erroneous if the appellate court, upon review of all the evidence, is left with a definite and firm conviction that a mistake has been made. *Id.* at 654-655. “The voluntary reduction of income may be considered in determining the proper amount of alimony.” *Id.* at 655. If the trial court’s findings are not clearly erroneous, this Court must then decide whether the dispositional ruling was fair and equitable in light of all of the facts. *Id.* at 655. The trial court’s decision must be affirmed unless the appellate court is firmly convinced that it was inequitable. *Gates, supra* at 433.

With regard to the determination of spousal support, the trial court ruled that plaintiff was entitled to “\$2,200 per month as spousal support and any COBRA premium to continue Plaintiff’s health insurance coverage ...” The trial court’s factual findings failed to delineate the items that were to be included in the amount of spousal support. Moreover, the trial court failed to make factual findings regarding issues that were in dispute between the parties. For example, the trial court concluded that income could be attributed to plaintiff. We recognize that the trial court implicitly rejected the testimony that plaintiff could attain a counseling job earning a

minimum of \$33,000 per year. However, the trial court did not address plaintiff's testimony and the evidence set forth in her journaling that she deliberately chose not to work. While plaintiff initially testified that she remained at home to be available for her children, plaintiff admitted, at trial, that she made no efforts between the graduation of the youngest child and the time of trial to find *any* type of employment, whether substitute teaching or counseling.¹ A voluntary reduction in income may be considered when determining an award of spousal support. *Moore, supra*.

Moreover, the trial court, in the division of assets, concluded that defendant was to receive one-half of the equity in the home. However, to the extent the spousal support award may have included the loan required to pay defendant his portion of the equity in the home, the division of assets was no longer an equitable distribution. Because of the deficiencies in the recitation of a conclusory award of spousal support, without more, we remand to the trial court for articulation of the items included within the spousal support in conjunction with the factors to be addressed when determining spousal support. Further, we cannot conclude if the trial court erroneously rendered an award of spousal support to cover payment of taxes for property which was ordered to be placed up for sale because of the blanket statement of an award without more. Accordingly, we reverse and remand to the trial court for an assessment of the amount of spousal support in light of the factors to be considered and any impact the award has on the equitable distribution of assets.²

Reversed. We do not retain jurisdiction.

/s/ Karen M. Fort Hood

/s/ Donald S. Owens

/s/ Bill Schuette

¹ We note that defendant challenges the assessment of income to plaintiff at \$16,000. We recognize that the trial court implicitly rejected the testimony presented by the defense and cannot conclude that this decision was erroneous. However, we note that the trial court did not determine the duration of a voluntary reduction of income in light of plaintiff's acknowledgment that she chose not to take any action to find employment in any field.

² We note that defendant also challenges the valuation of the vehicles at the time of trial. We cannot conclude that the decision regarding the time of the valuation was an abuse of discretion. However, we note that the trial court did not determine whether plaintiff inappropriately, based on the date of filing of the divorce petition, removed marital assets, specifically \$6,400, to purchase this depreciating asset, and whether defendant should receive an offset based on this action. The trial court may address this issue on remand. Lastly, we cannot conclude that the trial court's determination regarding the payment of the mortgage and the income generated from the marital estate were clearly erroneous.